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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,082	04/12/2004	Mark David Heath	GREENS-46002	3161

26252 7590 03/22/2007
KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/823,082	Applicant(s) HEATH, MARK DAVID	
	Examiner Yvonne M. Horton	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4,8,9,11,14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,487,248 to ARTZER. Regarding claims 1, 11 and 17, ARTZER discloses a process for manufacturing a structural panel of at least two generally parallel and spaced-apart thin-shell cementitious skins (37) joined by a truss (9) including the steps of aligning a plurality of fillers (1) with a plurality of trusses (9) in an alternating sequence, column 4, lines 17-19; pressing the aligned trusses and fillers to form a panel core, column 4, lines 26-31; overlying commercially available wire mesh (17) over opposing side surfaces of the panel core; and attaching the wire mesh to the trusses by attaching commercially available metal ties, column 4, lines 37-41, to connection points of the wire mesh and trusses to hold the panel core together. Regarding claim 3,4, ARTZER further details the use of fillers comprised of solid foamed material filler, column 4, lines 3-10. In reference to claims 8 and 14, ARTZER also teaches the step of applying a durable cementitious coating, column 5, lines 54-57.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,487,248 to ARTZER in view of US Patent #4,125,981 to MacLEOD et al. ARTZER discloses the step of providing reinforcing trusses including two parallel rods (15) spaced apart by a zig-zag wire (11) having bends (13). ARTZER discloses basic claimed panel except for explicitly detailing that the zig-zag wire is bent around the rods using approximately 30° bends. MacLEOD et al. teaches that it is known in the art to bend the zig-zag wire (30) at 30 degrees, column 4, lines 33-40. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the zig-zag wire of ARTZER with 30 degree bends, as taught by MacLEOD et al. in order to aid in cementitious layer to penetrate readily therethrough and to easily fill any voids left therebetween.

Claims 5,6,10,13,16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,487,248 to ARTZER. ARTZER discloses the basic claimed method except for the explicit type of filler and tie used. Regarding claims 9,11

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and 17, ARTZER discloses the use of C-clips (19) to connect the wire mesh (17) to the trusses (9). Regarding claims 5 and 6, although ARTZER only details the use of plastic foam fillers, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material on the basis of its suitability as an obvious matter of design choice. Regarding claims 10, 11, 16 and 17, although ARTZER discloses the use of C-clips (19) to connect the wire mesh (17) to the trusses (9); however, the applicant has shown no criticality between the use of upholstery clamps or bailing wire. Thus, it would have been obvious to one having ordinary skill in the art that C-clips are art recognized equivalent to upholstery clamps and bailing wire, and the selection of either would have been an obvious matter of design choice.

Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,487,248 to ARTZER in view of US Patent #6,272,805 to RITTER et al. ARTZER discloses the basic claimed method except for explicitly detailing the step of embedding a lathing member and applying a durable coating that is thicker on one side than the other. RITTER et al. teaches that it is known in the art to provide a durable coating (13') with a lathing (15) and to form the coating (13') thicker than the coating (14) on the opposite side. Thus, it would have been obvious to one having ordinary skill in the art to provide the durable cementitious skin with a lathing and to form the thickness of the skin different on opposing sides of the panel, as taught by RITTER et al., in order to improve the statistics of the panel or to improve the panel's sound deadening ability.

Allowable Subject Matter

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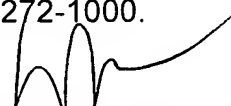
Claims 18-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne M. Horton
Primary Examiner
Art Unit 3635

03/19/07